

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

**CITIZENS PROTECTING MICHIGAN'S
CONSTITUTION, JOSEPH SPYKE, and
JEANNE DAUNT,**

v Plaintiffs,

Court of Appeals
No. 343517

**SECRETARY OF STATE and MICHIGAN
BOARD OF STATE CANVASSERS,**

Defendants / Cross-Defendants,
and

**INTERVENING DEFENDANTS /
CROSS-PLAINTIFFS' BRIEF IN
SUPPORT OF MOTION FOR
EXPEDITED CONSIDERATION
OF CROSS-CLAIM AND TO
REQUIRE CERTIFICATION OF
PROPOSAL**

**VOTERS NOT POLITICIANS BALLOT
COMMITTEE, d/b/a VOTERS NOT
POLITICIANS, COUNT MI VOTE, a Michigan
Non-Profit Corporation, d/b/a VOTERS NOT
POLITICIANS, KATHRYN A. FAHEY,
WILLIAM R. BOBIER and DAVIA C.
DOWNEY,**

Intervening Defendants / Cross-Plaintiffs

Peter H. Ellsworth (P23657)
Robert P. Young (P35486)
Ryan M. Shannon (P74535)
DICKINSON WRIGHT PLLC
Attorneys for Plaintiffs
215 S. Washington, Suite 200
Lansing, MI 48933
(517) 371-1730

Eric E. Doster (P41782)
DOSTER LAW OFFICES PLLC
Attorneys for Plaintiffs
2145 Commons Parkway
Okemos, MI 48864-3987
(517) 977-0147

Peter D. Houk (P15155)
Graham K. Crabtree (P31590)
Jonathan E. Raven (P25390)
FRASER TREBILCOCK DAVIS & DUNLAP, P.C.
Attorneys for the Intervening Defendants/Cross-Plaintiffs
124 W. Allegan, Suite 1000
Lansing, Michigan 48933
(517) 482-5800

James R. Lancaster (P38567)
Lancaster Associates PLC
Attorneys for the Intervening Defendants /
Cross-Plaintiffs
P.O. Box 10006
Lansing, Michigan 48901
(517) 285-4737

B. Eric Restuccia (P49950)
Chief Legal Counsel
Heather S. Meingast (P55439)
Denise C. Barton (P41535)
Attorneys for Defendants
P. O. Box 30736
Lansing, MI 48909
(517) 373-6434



**INTERVENING DEFENDANTS / CROSS-PLAINTIFFS'
BRIEF IN SUPPORT OF MOTION FOR EXPEDITED
CONSIDERATION OF CROSS-CLAIM AND TO
REQUIRE CERTIFICATION OF PROPOSAL**

Submitted by:

Peter D. Houk (P15155)
Graham K. Crabtree (P31590)
Jonathan E. Raven (P25390)
FRASER TREBILCOCK DAVIS & DUNLAP. P.C.
Attorneys for the Intervening Defendants/Cross-Plaintiffs
124 W. Allegan, Suite 1000
Lansing, Michigan 48933
(517) 482-5800

James R. Lancaster (P38567)
Lancaster Associates PLC
Attorneys for the Intervening Defendants /
Cross-Plaintiffs
P.O. Box 10006
Lansing, Michigan 48901
(517) 285-4737

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STATEMENT OF QUESTION PRESENTED

- I. SHOULD THIS COURT GRANT EXPEDITED CONSIDERATION OF INTERVENING DEFENDANTS' CROSS-CLAIM AND REQUIRE PROMPT PERFORMANCE OF THE BOARD OF CANVASSERS' MINISTERIAL DUTY TO CERTIFY THE BALLOT PROPOSAL AT ISSUE FOR INCLUSION ON THE GENERAL ELECTION BALLOT?**

The Intervening Defendants / Cross-Plaintiffs contend that answer is "Yes."

STATEMENT OF FACTS

In this original action, Plaintiffs seek a writ of mandamus directing Defendants Secretary of State and Board of State Canvassers (“Board of Canvassers” or “Board”) to reject the ballot proposal at issue in this litigation, and to take no action to place that proposal on the ballot. Plaintiffs’ Complaint for Mandamus has presented claims alleging that VNP’s proposal cannot be submitted to the voters because it constitutes a “general revision” of the Constitution which can only be accomplished by a constitutional convention convened pursuant to Const 1963, art 12, § 3, and because the ballot proposal petition failed to list and republish existing sections of the Constitution that would be abrogated by the amendment if adopted by the voters. All of the parties have agreed that these legal challenges present issues which are within the jurisdiction of the courts, and not the Board. No challenge to the validity or sufficiency of the signatures has been filed.

On December 18, 2017, Intervening Defendant / Cross-Plaintiff Voters Not Politicians (“VNP”) filed its ballot proposal petitions containing more than 428,000 signatures with the Secretary of State Bureau of Elections. On April 12, 2018, nearly four months later, the Board of Canvassers made a sample of the petition signatures available for public inspection and issued a Notice establishing a deadline of April 26, 2018, for submission of challenges to the sufficiency of the petition signatures.

Plaintiffs’ Complaint for Mandamus in this case, which appropriately acknowledged that the Board of Canvassers does not have jurisdiction to address the issues raised therein, was filed on April 25, 2018. On April 26, 2018, Plaintiff CPMC filed a Challenge with the Board raising the same issues raised in its present Complaint. It asserted that the subject matter of its challenge was within the jurisdiction of the courts, and not the Board. That challenge did not



raise any challenge to the validity or sufficiency of the petition signatures or any issues regarding the form of VNP's petition beyond the issues raised in Plaintiffs' Complaint for Mandamus.

The Intervening Defendants were granted leave to intervene in this matter and their Answer and Cross-Claim were accepted for filing by the Court's Order of May 11, 2018. The Intervening Defendants have pursued their Cross-Claim against Defendants Secretary of State and Board of Canvassers to ensure that their clear legal duties to certify the VNP proposal and submit it to the voters are performed promptly. The timely performance of those duties is critical to assure that questions concerning the VNP proposal's eligibility for the ballot and its submission to the voters are not decided in a piecemeal fashion which might unfairly limit the opportunity to pursue enforcement action against Defendants to compel certification of the proposal or approval of the constitutionally-required 100-word summary. It is inappropriate to allow the Board to delay these actions until final adjudication of Plaintiffs' claims by the Supreme Court.

The Intervening Defendants have filed their present motion because more recent events have revealed an intent to improperly delay the proper performance of the Defendants' duties. On May 3, 2018, VNP's General Counsel James Lancaster delivered a letter to Board of Canvassers Chairperson Norman D. Shinkle, requesting that the Board convene a meeting and certify VNP's voter-initiated proposal for inclusion on the 2018 General Election ballot as soon as possible. In support of that request, Mr. Lancaster cited the expiration of the Board's April 26, 2018 deadline for filing of challenges to the petition signatures with no challenges having been filed, and the preliminary findings of the Bureau of Elections, consistent with the findings of VNP's independent political consultant, that analysis of the signature sample had revealed

an abundantly sufficient number of valid signatures. (Lancaster Affidavit, ¶ 3 and letter attached as Exhibit A)¹ The Board did not respond to the request made in Mr. Lancaster's letter of May 3, 2018. The Board subsequently scheduled a meeting for May 10, 2018, but consideration of VNP's ballot proposal was not on the agenda for that meeting. (Lancaster Affidavit, ¶ 4 and Notice attached as Exhibit B)

Mr. Lancaster attended the Board of Canvassers meeting on May 10, 2018, and addressed the Board to renew his request that the Board certify VNP's proposal for inclusion on the 2018 General Election ballot in light of Plaintiffs' acknowledgement that the challenges to certification raised in this litigation were within the jurisdiction of the courts, and not the Board; the expiration of the Board's deadline for filing of challenges to the petition signatures with no challenges having been filed; and the preliminary evaluations revealing that an abundantly sufficient number of signatures had been filed in support of VNP's proposal. After hearing Mr. Lancaster's comments, Chairman Shinkle noted that VNP's proposal was not on the agenda for that meeting, but inquired of Bureau of Elections Director Sally Williams as to whether there was any reason that it would not be on the agenda for the Board's next meeting on May 24, 2018. She would not commit to putting VNP's proposal on the agenda for the May 24, 2018 meeting. (Lancaster Affidavit, ¶ 5 and transcript excerpts attached as Exhibit C)

On May 14, 2018, Mr. Lancaster sent a letter to Bureau of Elections Director Sally Williams, explaining his calculations revealing a sufficient number of signatures based upon the Bureau's review of the sampled signatures, and requested that the Bureau prepare its staff report for VNP's proposal as soon as possible, that it recommend certification of VNP's

¹ A copy of Mr. Lancaster's Affidavit with attached Exhibits is submitted herewith as Appendix "A."

proposal for the ballot, and that the Bureau place VNP's proposal on the agenda for the May 24, 2018 meeting of the Board. (Lancaster Affidavit, ¶ 6 and letter attached as Exhibit D)

On May 22, 2018, the Bureau of Elections issued its Staff Report for VNP's proposal. That report stated that 315,654 valid signatures were required for certification, and estimated that VNP's petition was supported by 394,092 valid signatures, at a confidence level of 100%. The Staff Report also noted the agreement of the parties that the Plaintiffs' legal challenges regarding the form of VNP's petition were properly before the courts, and concluded with the recommendation that the Board certify the petition. (Lancaster Affidavit, ¶ 7 and Staff Report attached as Exhibit E.) On the same date, Mr. Lancaster received notification that VNP's proposal had been placed on the agenda for the Board's meeting of May 24, 2018. (Lancaster Affidavit, ¶ 8 and notification attached as Exhibit F.

On the afternoon of May 23, 2018, Mr. Lancaster received notification that the Board's meeting scheduled for May 24, 2018 had been cancelled. A copy of the notice of cancellation, which provided no explanation of the reason for the cancellation, is attached as Exhibit G. (Lancaster Affidavit, ¶ 9 and notice of cancellation attached as Exhibit G)

On May 23, 2018, after learning that the Board's meeting had been cancelled, Mr. Lancaster sent an e-mail message to Board Chairman Shinkle, requesting that he provide an explanation of the reason for the cancellation and inquiring as to whether VNP's proposal would be on the agenda for the Board's next meeting on June 1, 2018. Chairman Shinkle has not responded to that message. (Lancaster Affidavit, ¶ 10 and e-mail message attached as Exhibit H)

The Board of Canvassers has now issued its agenda for its meeting to be held on June 1, 2018, a copy of which is attached as Exhibit B. Consideration of VNP's proposal is not included among the items listed on that agenda.

Explanations of Chairman Shinkle's reasons for cancelling the May 24, 2018 meeting have appeared in media reports. In *Gongwer News Service's* report for May 23, 2018, Secretary of State Spokesperson Fred Woodhams was quoted as saying that Chairman Shinkle had cancelled the meeting "because there were legal filings this week that make it clear the board was under no immediate deadline to take up the matter." In the *MIRS News* report for May 23, 2018, Mr. Woodhams was quoted as saying that Chairman Shinkle had opted to cancel the meeting because there were "legal filings this week that make it clear the board was under no immediate deadline to take up the matter" and further explained that Mr. Shinkle had stated that "the matter is before the courts" and he wanted resolution there before having the Board move forward. (Lancaster Affidavit, ¶ 11 and media reports attached as Exhibits I and J)

LEGAL ARGUMENT

I. THIS COURT SHOULD GRANT EXPEDITED CONSIDERATION OF INTERVENING DEFENDANTS' CROSS-CLAIM AND REQUIRE PROMPT PERFORMANCE OF THE BOARD OF CANVASSERS' MINISTERIAL DUTY TO CERTIFY THE BALLOT PROPOSAL AT ISSUE FOR INCLUSION ON THE GENERAL ELECTION BALLOT.

The most appropriate action for this Court to take is to grant this motion to assure that all issues related to the eligibility of the VNP proposal for the ballot are squarely before this Court, to avoid a piecemeal resolution of this matter, and to assure a timely adjudication of all issues concerning the eligibility of the VNP proposal and its submission to the voters. At this time, the Board's "sole duty" with regard to qualifying petitions is "to determine whether the signatures on the petition are valid, including that of the person who circulated the petition,

whether they are the signatures of registered voters, and whether there are sufficient valid signatures to certify the petition.” *Deleeuw v State Board of Canvassers*, 263 Mich App 496, 500-501; 693 NW2d 179 (2004); *Gillis v Board of State Canvassers*, 453 Mich 881; 554 NW2d 9 (1996).

Defendants Secretary of State and Board of Canvassers have taken no substantive positions on Plaintiffs’ Complaint for Mandamus or Intervening Defendants’ Cross-Claim. Rather, they have appropriately pledged to comply with this Court’s orders. Their brief in response to Intervening Defendants’ Cross-Claim has incorporated the discussion set forth in their brief filed in response to Plaintiffs’ Complaint for Mandamus, and their counsel has appropriately requested that this Court issue its decision in this matter promptly, so as to allow sufficient time for conclusion of any subsequent appeals to the Supreme Court before the middle of August.

Defendants’ request overlooks the potential for delay in the further proceedings before the Board of Canvassers which could occur after completion of the Supreme Court’s review – a delay which could unfairly deny the Intervening Defendants a reasonable opportunity to pursue further review, or enforcement of any decree made by this Court or the Supreme Court, if there should be an unjustified deadlock of the Board’s members on the eve of the deadline. This is why it is critical that the Court grant this motion, in order to avoid a piecemeal resolution of questions regarding the eligibility of the VNP proposal for the November 2018 General Election ballot and its submission to the voters in that election.

The Plaintiffs are not concerned about the potential for such an injustice; indeed, it appears that they would welcome it, as their Answer has repeatedly asserted that the Board of Canvassers is not required to certify VNP’s proposal for the ballot until September 6, 2018.

The Intervening Defendants have filed this motion for expedited consideration of their Cross-Claim and to require a prompt certification of their proposal for the ballot in order to avoid falling victim to an injustice of that kind that could occur with a piecemeal resolution of issues related to eligibility of the VNP proposal for the ballot and its submission to the voters.

As the Intervening Defendants have noted in their previously-filed supporting brief, this Court has the authority to grant the relief requested in their Cross-Claim by means of a writ of mandamus directed to Defendants Secretary of State and Board of Canvassers. The Court also has broad authority to grant that relief pursuant to MCR 7.216(C)(7), which provides that this Court may, at any time, on terms it deems just, “enter any order or grant further or different relief as the case may require, and MCR 7.216(A)(9), which allows the Court to “direct the parties as to how to proceed in any case pending before it.” *See, Attorney General v Board of State Canvassers*, 318 Mich App 242, 248; 896 NW2d 485 (2016) (citing MCR 7.216(A)(7) as additional authority for the Court’s order to stop the recount of votes for the 2016 presidential election); *Citizens Protecting Michigan’s Constitution v Secretary of State*, 280 Mich App 801; 761 NW2d 210 (2008) (citing MCR 7.216(A)(7) as authority supporting its Order to exclude the Reform Michigan Government Now! (RMGN) proposal from the ballot). The Intervening Defendants contend that they are entitled to prompt performance of the Defendants’ statutory obligations in regard to certification of VNP’s proposal, preparation and approval of the constitutionally-required 100-word summary of purpose, and preparation of their proposal for submission on the General Election ballot for these reasons and the additional reasons discussed in their supporting brief previously filed on May 22, 2018.

As the parties have correctly acknowledged, Plaintiffs’ legal challenges to the validity of VNP’s petition present issues which are within the jurisdiction of the courts, and not the

Board. It is also undisputed that: 1) the Board of Canvassers established a deadline of April 26, 2018 for filing of challenges to the petition signatures; 2) no challenges to the number or validity of the petition signatures have been filed with the Board of Canvassers; 3) no challenges to the form of VNP's petition have been filed with the Board of Canvassers other than a challenge filed by Plaintiff Citizens Protecting Michigan's Constitution ("CPMC") which has raised the same issues which have been raised in Plaintiffs' present Complaint for Mandamus – issues which the parties have agreed are not within the Board's jurisdiction; and 4) the challenge filed with the Board of Canvassers by Plaintiff CPMC did not raise any issues other than those which have been raised in this Court by Plaintiffs' present Complaint for Mandamus.

As evidenced by the Bureau of Elections Staff Report presented to the Board of Canvassers on May 22, 2018, VNP's proposal has been supported by an amply sufficient number of valid petition signatures. (Lancaster Affidavit, ¶7 and attached Exhibit E) Thus, in the absence of any issues concerning the number or sufficiency of the petition signatures, and there being no challenges to the form of the petition within the Board's jurisdiction, the Board's duty to certify VNP's proposal for submission on the ballot is ministerial, requiring no exercise of discretion. As this Court has held, in *Citizens for Protection of Marriage v Board of State Canvassers*, 263 Mich App 487, 542; 688 NW2d 538 (2004), the Board of Canvassers is obligated to certify a petition when it has approved the form of the petition, as it has in this case, and a sufficient number of signatures has been filed in support.

The Intervening Defendants contend that there is no legitimate reason to delay the Board's ministerial certification of VNP's proposal or the preparation and approval of the 100-word summary of purpose pending resolution of Plaintiffs' legal challenges. There *is*, however, a need for direction from this Court requiring the prompt certification of VNP's proposal and

performance of the defendants' remaining statutory duties for a number of reasons. As previously discussed, VNP's voter-initiated petition, supported by an amply sufficient number of valid signatures, was filed with the Bureau of Elections on December 18, 2017, *more than 5 months ago*, but the Board of Canvassers has not addressed the sufficiency of the signatures or considered certification of VNP's proposal in any of its proceedings conducted to date.

On May 3, 2018, having observed that no challenges within the Board's jurisdiction had been filed within the time allowed by the Board for filing of challenges, VNP's General Counsel James Lancaster, made a written request to Board Chairman Norman Shinkle to put VNP's proposal on the Board's agenda for certification as soon as possible. (Lancaster Affidavit, ¶ 3 and attached Exhibit A)

VNP's proposal was not put on the agenda for the May 10, 2018 meeting, but Mr. Lancaster attended the meeting on that date and spoke to the Board, renewing his request for prompt scheduling and certification of VNP's proposal. (Lancaster Affidavit, ¶¶ 4-5, and attached Exhibit C) On May 22, 2018, the Bureau of Elections issued its Staff Report which reported its conclusion that VNP's petition had been supported by an abundantly sufficient number of valid signatures and recommended that the Board certify the petition. On the same date, VNP's proposal was listed for consideration on the agenda for the Board's meeting to be held on May 24, 2018. (Lancaster Affidavit, ¶¶ 7-8 and attached Exhibit F) But on the afternoon of May 23, 2018, Board Chairman Shinkle abruptly cancelled the Board's meeting scheduled for May 24, 2018, without explanation of the reason for the cancellation. Attorney Lancaster has asked Mr. Shinkle to explain the reason for the cancellation and to indicate whether VNP's proposal would be scheduled for the next meeting of the Board. Mr. Shinkle has not responded to this request. (Lancaster Affidavit, ¶¶ 7-8 and attached Exhibits G and H)

The Board of Canvassers has now issued its agenda for its meeting to be held on June 1, 2018, a copy of which is attached as Exhibit B. Consideration of VNP's proposal is not included among the items listed on that agenda.

Media accounts published on May 23, 2018 have reported comments attributed to Mr. Shinkle stating that he cancelled the meeting of May 24, 2018 because filings made in this matter had made it clear that "the board was under no immediate deadline to take up the matter" and, because "the matter is in the courts" he wanted resolution there before having the Board move forward. (Lancaster Affidavit, ¶¶ 7-8 and attached Exhibits I and J)

In the Plaintiffs' Answer and Affirmative Defenses to Intervening Defendants' Cross-Claim filed with this Court on May 22, 2018, Plaintiffs have denied that there is any necessity for prompt consideration of VNP's proposal by the Board, and asserted that the Board is not required to act on VNP's proposal until September 6, 2018. (See Plaintiffs' responses to Paragraphs 17, 20, 28 and 32 of the Cross-Claim on pages 11-12, 16 and 18, and Affirmative Defense No. 6 on page 19) Chairman Shinkle's abrupt cancellation of the May 24, 2018 meeting, his statements to the media, and the absence of VNP's proposal from the agenda for the June 1, 2018 meeting of the Board suggest that his actions have been influenced by the arguments and opinions expressed by the Plaintiffs' pleadings in this matter, and that he has been persuaded by those arguments and opinions to conclude that VNP's proposal for amendment of the Constitution need not be addressed by the Board before September 6, 2018.

If the Board's consideration of VNP's proposal is delayed in the manner that Plaintiffs and Chairman Shinkle have suggested, the delay would likely result in a piecemeal resolution of the issues related to the eligibility of VNP's proposal for the ballot and its submission to the voters, thus denying the Intervening Defendants a reasonable opportunity to pursue further

review, or enforcement of any decree made by this Court or the Supreme Court, in the event of an unjustified deadlock of the Board's members on the eve of the deadline. In light of this reality, the Court might well ask why the Plaintiffs would suggest to this Court that it would be appropriate to delay the Board's certification of VNP's proposal until the first week of September. To ask the question is to answer it as well: It seems that the Plaintiffs would like to have the Intervening Defendants forced into a position where there will be insufficient time for meaningful review of any unfavorable action that may be taken by the Board of Canvassers, for reasons political or otherwise, on the eve of the statutory deadline for approval of ballot proposals.

If that is indeed the Plaintiffs' strategy, this Court should reject it. Plaintiffs have raised legal challenges to the validity of VNP's petition and those issues will be decided by this Court and the Supreme Court in due course. But this litigation is not a game, and this Court should be loath to approve any strategy that would be implemented in the manner that a game would be played. If there is to be any unjustified refusal to certify VNP's proposal or approve the 100-word summary of purpose prepared by the Director of Elections, that action should be taken sooner rather than later, so that the Intervening Defendants may have a reasonable opportunity to present their legal challenges, and the courts will have sufficient time to consider them.

Not surprisingly, Michigan appellate decisions have manifested frustration with untimely and piecemeal challenges to ballot proposals. In *Massey v Secretary of State*, 457 Mich 410, 414-415; 579 NW2d 862 (1998), which addressed a post-election challenge to the adoption of Proposal C (term limits) in the 1992 general election based upon a claim that the Secretary of State had failed to publish all of the existing provisions that would be altered or abrogated by the proposed amendment, the Supreme Court recognized the potential for the

courts to require corrective action when a challenge is more appropriately brought prior to the election, noting that, “[t]his Court has long expressed a preference that challenges such as the one brought in the present case be filed sufficiently before an election, in this case the election of 1992, for the courts to have time to resolve the dispute and, if necessary, to direct election officials to take corrective action or to enjoin submission of the proposal to the electorate.” 457 Mich at 414-415, citing *Carman v Secretary of State*, 384 Mich 443, 449; 185 NW2d 1 (1971).

In *Citizens for Protection of Marriage*, *supra*, this Court granted the requested writ of mandamus to require certification of the proposal for amendment of the Constitution at issue in an Opinion and Order issued on September 3, 2004. But because it appeared likely that the Board of Canvassers would remain deadlocked, the Court declined to order a remand to the Board for approval of the 100-word summary proposed by the Director of Elections during the pendency of the Court’s review, but instead directed the Secretary of State to take all necessary measures to place the proposal on the November ballot using the 100-word summary previously submitted. 263 Mich App at 493-495.

The harm threatened in this case is similar to the deadlock that threatened to defeat the will of the people in *Citizens for Protection of Marriage*, as it is obvious that Chairman Shinkle will continue to inappropriately exercise his authority to delay consideration of the VNP proposal (in effect, a *de facto* deadlock) until after the issues raised in Plaintiffs’ Complaint are finally adjudicated. To prevent that harm, this Court now should take swift action, similar to its action in *Citizens*, to assure that all issues related to the eligibility of VNP’s proposal for the ballot and its proper submission to the voters are settled by judicial decree well in advance of the statutory deadline.

In this case, there is no justification or necessity for delaying the certification of VNP's proposal or the completion of the related duties required for submission of its proposal on the ballot until final adjudication of Plaintiffs' legal challenges by this Court or the Supreme Court. This Court's decisions on this motion and Intervening Defendants' Cross-Claim, and all actions taken by the Secretary of State and the Board of Canvassers in compliance with this Court's Orders, would of course be subject to modification by any subsequent Order of this Court or the Supreme Court. Thus, there would be no prejudice of any kind, to any party, if VNP's proposal is certified and prepared for submission on the ballot pending disposition of Plaintiffs' legal challenges.

For all of these reasons, the Intervening Defendants contend that the interests of justice would be best served by granting an expedited consideration of Intervening Defendants' Cross-Claim and requiring the Board of Canvassers to promptly perform its ministerial duty to certify VNP's proposal for inclusion on the General Election ballot without further delay.

WHEREFORE, the Intervening Defendants / Cross-Plaintiffs respectfully request that this Honorable Court grant their Motion for Expedited Consideration of Cross-Claim and to Require Certification of Proposal, and that the Court promptly enter its Order:

1) Directing the Board of State Canvassers to perform its ministerial duty of certifying VNP's ballot proposal for inclusion on the 2018 General Election ballot, or alternatively, to consider and vote upon certification of VNP's ballot proposal, at a meeting convened within 14 days after entry of the Court's Order, or another time deemed appropriate by the Court;

2) Directing the Director of Elections to prepare the constitutionally-required 100-word summary of purpose, and requiring the Board of State Canvassers to consider and approve

or vote upon the Director of Elections' proposed summary within 30 days after entry of the Court's Order, or another time deemed appropriate by the Court;

3) Directing the Secretary of State to promptly comply with all of its other constitutional and statutory duties regarding placement of VNP's proposal on the ballot.

Respectfully submitted,

FRASER TREBILCOCK DAVIS & DUNLAP, P.C.
Attorneys for the Intervening Defendants /
Cross-Plaintiffs

By: 

Peter D. Houk (P15155)
Graham K. Crabtree (P31590)
Jonathan E. Raven (P25390)
124 W. Allegan, Suite 1000
Lansing, Michigan 48933
(517) 482-5800

James R. Lancaster (P38567)
Lancaster Associates PLC
Attorneys for the Intervening Defendants /
Cross-Plaintiffs
P.O. Box 10006
Lansing, Michigan 48901
(517) 285-4737

Dated: May 30, 2018



APPENDIX “A”

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

**CITIZENS PROTECTING MICHIGAN'S
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JEANNE DAUNT,**

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**AFFIDAVIT OF JAMES
R. LANCASTER**

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Peter H. Ellsworth (P23657)
Robert P. Young (P35486)
Ryan M. Shannon (P74535)
DICKINSON WRIGHT PLLC
Attorneys for Plaintiffs
215 S. Washington, Suite 200
Lansing, MI 48933
(517) 371-1730

Eric E. Doster (P41782)
DOSTER LAW OFFICES PLLC
Attorneys for Plaintiffs
2145 Commons Parkway
Okemos, MI 48864-3987
(517) 977-0147

Peter D. Houk (P15155)
Graham K. Crabtree (P31590)
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FRASER TREBILCOCK DAVIS & DUNLAP, P.C.
Attorneys for the Intervening Defendants/Cross-Plaintiffs
124 W. Allegan, Suite 1000
Lansing, Michigan 48933
(517) 482-5800

James R. Lancaster (P38567)
Lancaster Associates PLC
Attorneys for the Intervening Defendants /
Cross-Plaintiffs
P.O. Box 10006
Lansing, Michigan 48901
(517) 285-4737

B. Eric Restuccia (P49950)
Chief Legal Counsel
Heather S. Meingast (P55439)
Denise C. Barton (P41535)
Attorneys for Defendants
P. O. Box 30736
Lansing, MI 48909
(517) 373-6434

AFFIDAVIT OF JAMES R. LANCASTER

STATE OF MICHIGAN)
) SS
COUNTY OF INGHAM)

James R. Lancaster, being first duly sworn, deposes and states the following:

1. I have personal knowledge of the matters discussed herein, and am competent to give testimony regarding those matters if called upon to do so.

2. I am the General Counsel for Intervening Defendant / Cross-Plaintiff Voters Not Politicians (“VNP”).

3. On May 3, 2018, I delivered a letter to Norman D. Shinkle, the Chairperson of the Board of State Canvassers (“the Board”), requesting that the Board convene a meeting and certify VNP’s voter-initiated proposal for inclusion on the 2018 General Election ballot as soon as possible. In support of that request, I cited the expiration of the Board’s April 26, 2018 deadline for filing of challenges to the petition signatures with no challenges having been filed, and the preliminary findings of the Bureau of Elections, consistent with the findings of VNP’s independent political consultant, that analysis of the signature sample had revealed an abundantly sufficient number of valid signatures. A copy of my letter of May 3, 2018 with attached Exhibits is attached as Exhibit A.

4. The Board did not respond to the request made in my letter of May 3, 2018. The Board subsequently scheduled a meeting for May 10, 2018, but consideration of VNP’s ballot proposal was not on the agenda for that meeting. A copy of the Notice for the May 10, 2018 meeting is attached as Exhibit B.

5. I attended the Board of Canvassers meeting on May 10, 2018, and addressed the Board to renew my request that the Board certify VNP’s proposal for inclusion on the 2018



General Election ballot in light of Plaintiffs' acknowledgement that the challenges to certification raised in this litigation were within the jurisdiction of the courts, and not the Board; the expiration of the Board's deadline for filing of challenges to the petition signatures with no challenges having been filed; and the preliminary evaluations revealing that an abundantly sufficient number of signatures had been filed in support of VNP's proposal. After hearing my comments, Chairman Shinkle noted that VNP's proposal was not on the agenda for that meeting, but inquired of Bureau of Elections Director Sally Williams as to whether there was any reason that it would not be on the agenda for the Board's next meeting on May 24, 2018. She would not commit to putting VNP's proposal on the agenda for the May 24, 2018 meeting. A copy of the pertinent portions of the transcript of the May 10, 2018 Board of Canvassers meeting is attached as Exhibit C.

6. On May 14, 2018, I sent a letter to Bureau of Elections Director Sally Williams, explaining my calculations revealing a sufficient number of sufficient signatures based upon the Bureau's review of the sampled signatures; and requesting that the Bureau prepare its staff report for VNP's proposal as soon as possible, that it recommend certification of VNP's proposal for the ballot, and that the Bureau place VNP's proposal on the agenda for the May 24, 2018 meeting of the Board. A copy of that letter is attached as Exhibit D.

7. On May 22, 2018, the Bureau of Elections issued its Staff Report for VNP's proposal. That report stated that 315,654 valid signatures were required for certification, and estimated that VNP's petition was supported by 394,092 valid signatures, at a confidence level of 100%. The Staff Report also noted the agreement of the parties that the Plaintiffs' legal challenges regarding the form of VNP's petition were properly before the courts, and concluded

with the recommendation that the Board certify the petition. A copy of the Bureau of Elections Staff Report is attached as Exhibit E.

8. On May 22, 2018, I received notification that VNP's proposal had been placed on the agenda for the Board's meeting of May 24, 2018. A copy of that notification is attached as Exhibit F.

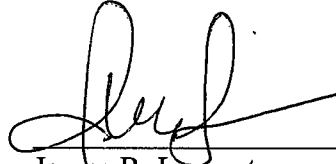
9. On the afternoon of May 23, 2018, I received notification that the Board's meeting scheduled for May 24, 2018 had been cancelled. A copy of the notice of cancellation, which provided no explanation of the reason for the cancellation, is attached as Exhibit G.

10. On May 23, 2018, after learning that the Board's meeting had been cancelled, I sent an e-mail message to Board Chairman Shinkle, requesting that he provide an explanation of the reason for the cancellation and inquiring as to whether VNP's proposal would be on the agenda for the Board's next meeting on June 1, 2018. A copy of my e-mail message to Mr. Shinkle is attached as Exhibit H. Chairman Shinkle has not responded to that message.

11. Explanations of Chairman Shinkle's reasons for cancelling the May 24, 2018 meeting have appeared in media reports. In *Gongwer News Service's* report for May 23, 2018, the pertinent excerpt of which is attached as Exhibit I, Secretary of State spokesperson Fred Woodhams was quoted as saying that Chairman Shinkle had cancelled the meeting "because there were legal filings this week that make it clear the board was under no immediate deadline to take up the matter." In the *MIRS News* report for May 23, 2018, the pertinent excerpt of which is attached as Exhibit J, Mr. Woodhams was quoted as saying that Chairman Shinkle had opted to cancel the meeting because there were "legal filings this week that make it clear the board was under no immediate deadline to take up the matter" and further explained that Mr.

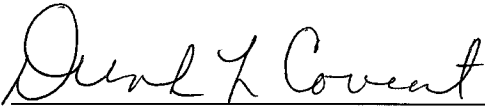
Shinkle had stated that "the matter is before the courts" and he wanted resolution there before having the Board move forward.

Further, Deponent sayeth not.



James R. Lancaster

Subscribed and sworn before me on the 25th day of May, 2018.



Notary Public, Ingham County

Acting in Ingham County

My Commission expires: 5-15-2019

DEBORAH L. COVEART
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF CLINTON
My Commission Expires May 15, 2019
Acting in the County of Ingham

EXHIBIT A



May 3, 2018

Mr. Norman D. Shinkle, Chairperson
Michigan Board of State Canvassers
Michigan Department of State
430 W. Allegan St.
Lansing, Michigan 48909

Re: Voters Not Politicians Ballot Committee

Dear Chairperson Shinkle:

I am counsel to Voters Not Politicians Ballot Committee ("VNP"). I am writing to request that the Michigan Board of State Canvassers ("Board") convene a meeting as soon as possible, and certify the initiative petition sponsored by VNP (the "VNP Proposal") for the November 2018 General Election ballot.

On December 18, 2107, VNP filed with the Michigan Department of State 74,721 sheets of signed petitions containing 428,587 signatures.

On April 12, 2018, the Bureau of Elections ("Bureau") and the Board published a notice establishing April 26, 2018 at 5:00 p.m. as the deadline for members of the public to submit challenges to the signatures sampled from the petitions submitted by VNP (Exhibit A). No challenges to the signatures have been filed.

Our consultant, Practical Political Consultant has analyzed the sampled signatures, and determined that 466 of 505 sampled signatures are clearly valid (Exhibit B). The Bureau has provided to us its preliminary analysis of the signatures; that analysis also concluded that 466 of the 505 sampled signatures are valid (Exhibit C). The Bureau sampled the signatures for the petitions submitted by the Coalition To Regulate Marijuana Like Alcohol, and found that 366 of the 500 sampled signature were valid, and concluded that there was a sufficient number of signatures to justify certification of that proposal (Exhibit D). At its most recent meeting, the Board unanimously certified that petition.

The signature sample for **the VNP Proposal has 100 more valid signatures than the Marijuana proposal** on a similar sample size (500 vs. 505). Clearly, the VNP Proposal is entitled to certification by the Board.

The ballot question committee sponsored by the Michigan Chamber of Commerce, Citizens Protecting Michigan's Constitution ("CPMC"), has filed a challenge which raises only legal issues, which it has acknowledged are outside of the jurisdiction of the Board. CPMC has

Phone: (517) 285-4737

P.O. Box 10006
Lansing, Michigan 48901

lancaster-law@comcast.net

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also filed a lawsuit with the Michigan Court of Appeals raising the same issues. However, these actions are irrelevant to the Board's clear legal duty of certify the VNP Proposal.

We would appreciate your prompt consideration of our request. Please let us know your decision as soon as possible. In order to expedite our receipt of your response, I would appreciate a copy of your response via email at lancaster-law@comcast.net

Respectfully,

A handwritten signature in black ink, appearing to read 'J. Lancaster', with a long horizontal flourish extending to the right.

James R. Lancaster

cc: Colleen Pero
Jeanette Bradshaw
Julie Matuzak
Sally Williams
Melissa Malerman
Nancy Wang
Katie Fahey
Hon. Peter D. Houk

Exhibit A

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STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

April 12, 2018

**CHALLENGE DEADLINE ESTABLISHED FOR
INITIATIVE PETITION TO AMEND THE MICHIGAN CONSTITUTION
SPONSORED BY
VOTERS NOT POLITICIANS**

An initiative petition proposing an amendment to the Michigan Constitution to create the Independent Citizens Redistricting Commission and authorize the Commission to adopt reapportionment plans for Congressional, State Senate and State House of Representatives districts, was filed with the Secretary of State on December 18, 2017 by Voters Not Politicians.

The Board of State Canvassers has established a uniform deadline for challenging signatures sampled from an initiative, constitutional amendment or referendum petition to elapse at 5:00 p.m. on the 10th business day after copies of the sampled signatures are made available to the public. (See minutes of November 8, 2013 meeting of the Board of State Canvassers.)

Please be advised that copies of the signatures sampled from this constitutional amendment petition were made available for release to the public on April 12, 2018. **Therefore, the deadline to submit challenges to this petition will elapse at 5:00 p.m. on April 26, 2018.**

Please contact the Bureau of Elections at (517) 373-2540 if you wish to purchase a copy of the sampled signatures for the petition.

Exhibit B

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**Practical Political Consulting
920 North Washington
Lansing, Michigan 48906**

**To: James R. Lancaster
Voters Not Politicians General Counsel**

From: Alan Fox and Mark Grebner

Re: Review of Sample Signatures Of The Voters Not Politicians Petitions

Date: April 18, 2018

You had asked us to review and analyze the 505 signatures that the Bureau of Elections has drawn from the Voters Not Politicians' petitions.

The Bureau has reviewed a universe of 74,295 sheets containing 427,075 signatures.

You provided to us on Friday copies of the petitions sheets containing each sample signature. We compared each of the 505 signatures to the information in our database. We believe that at least 466 of the signatures are clearly and unquestionably valid. This results in a 92.27% validity rate.

VNP needs 73.91% of its signatures to be valid in order to have the 315,654 signatures necessary to qualify for the ballot. Obviously, the percentage of valid signatures in the sample puts VNP well above this threshold.

Based on our analysis, we expect the Board of State Canvassers will determine that there are a sufficient number of signatures to qualify the Voters Not Politicians proposal for the 2018 General Election Ballot.

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Exhibit C

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Pierce, Carol (MDOS) <piercec1@michigan.gov>

4/16/2018 4:51 PM

Voters Not Politicians

To James Lancaster <lancaster-law@comcast.net> Copy Peter Houk <phouk@fraserlawfirm.com> •
Graham Crabtree <gcrabtree@fraserlawfirm.com> • Jonathan Raven <jraven@fraserlawfirm.com>

We have completed our initial review of the sampled signatures.

Please note that we will continue to perform our verification process steps that may result in some status changes prior to our staff report.

Attached is a spreadsheet outlining the sheet number, line number and current status of the signature's validity.

Regards,

Carol Pierce
Election Specialist, Election Liaison Division
Bureau of Elections, Secretary of State
800-292-5973 517-373-2540

You can't teach people everything they need to know. The best you can do
is position them where they can find what they need to know when they need it
—Seymour Papert

-
- VNP_SampledSheetsLines.xlsx (33 KB)

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**Voters Not
Politicians**
Sample results ~ 505 signature sample

	Sheet	Line	
1	36	1	R
2	160	2	R
3	267	4	R
4	372	2	OC
5	451	10	R
6	528	4	R
7	553	1	R
8	562	1	R
9	678	4	R
10	679	5	R
11	919	8	R
12	938	10	R
13	1017	10	R
14	1022	2	R
15	1114	1	R
16	1217	2	R
17	1433	1	R
18	1490	1	R
19	1614	10	R
20	1869	7	NR
21	1874	8	R
22	2008	1	NR
23	2143	8	NR
24	2250	9	R
25	2378	9	R
26	2436	1	NR
27	2467	1	R
28	2821	1	R
29	2908	9	R
30	2923	1	R
31	3059	10	R
32	3126	2	R
33	3222	7	R
34	3237	1	R
35	3543	4	R
36	3650	7	R
37	4026	8	R
38	4395	2	R
39	4417	2	R

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40	4563	2	R
41	4622	6	R
42	4751	7	R
43	4828	1	R
44	5111	2	R
45	5330	8	R
46	5681	1	R
47	5764	10	R
48	5956	4	R
49	6216	2	R
50	6320	7	R
51	6533	8	R
52	6562	3	R
53	6907	3	R
54	6939	7	R
55	6999	3	R
56	7616	9	R
57	7631	3	R
58	7640	2	R
59	7759	1	R
60	7877	9	R
61	8092	5	NR
62	8321	3	R
63	8326	5	R
64	8434	10	R
65	8494	3	R
66	8508	7	R
67	8513	6	R
68	8535	7	R
69	8607	1	R
70	8608	2	R
71	8653	4	R
72	8865	3	R
73	8996	1	R
74	9122	4	R
75	9499	8	R
76	9533	5	R
77	9722	1	NR
78	9861	6	R
79	10426	5	R
80	10526	1	R
81	10642	4	R
82	10679	7	R
83	10731	5	NR
84	11247	2	R
85	11553	5	R
86	11646	6	NR

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87	11804	2	R
88	11836	5	NR
89	11865	1	R
90	11877	7	R
91	11940	1	R
92	12265	6	R
93	12465	7	R
94	12789	1	R
95	12817	4	R
96	12926	10	R
97	12966	1	R
98	13308	5	R
99	13451	9	R
100	13568	2	R
101	13607	2	R
102	13705	3	R
103	13768	5	R
104	14218	4	R
105	14301	1	R
106	14392	6	R
107	14447	1	R
108	14563	4	R
109	14858	2	IN
110	14999	10	R
111	15257	3	R
112	15396	8	R
113	15649	10	R
114	15777	1	R
115	15795	1	NR
116	15918	10	R
117	15926	7	R
118	16073	10	R
119	16121	8	R
120	16139	9	R
121	16275	6	R
122	16311	9	R
123	16654	4	R
124	16726	7	R
125	16728	1	R
126	16772	10	R
127	16773	4	R
128	16878	1	R
129	17301	7	R
130	17393	5	R
131	17417	1	R
132	17457	2	R
133	17526	6	R

134	17652	1	R
135	17659	8	R
136	17846	10	NR
137	17943	1	R
138	18189	7	R
139	18474	1	R
140	18474	1	R
141	18583	7	IN
142	18600	6	R
143	18974	2	R
144	19170	5	R
145	19345	1	R
146	19451	1	R
147	19527	3	R
148	19752	2	ND
149	20038	9	IN
150	20145	2	R
151	20400	7	R
152	20530	3	R
153	20690	3	R
154	21007	2	R
155	21311	9	R
156	21630	2	R
157	21636	5	R
158	21770	7	R
159	21884	5	NR
160	21957	1	R
161	22003	5	R
162	22282	6	R
163	22286	4	R
164	22289	1	R
165	22405	4	R
166	22488	1	R
167	23032	1	R
168	23156	2	R
169	23562	2	R
170	23680	9	R
171	23754	6	R
172	23774	2	R
173	23833	4	R
174	24026	2	R
175	24425	3	R
176	24717	4	R
177	24789	7	R
178	25181	5	R
179	25275	7	R
180	25397	2	R

181	25423	2	R
182	25525	3	R
183	25587	1	R
184	25605	2	R
185	25609	1	R
186	25802	8	R
187	25887	1	R
188	26078	4	NR
189	26308	4	R
190	26515	1	R
191	26666	4	R
192	27151	10	R
193	27152	2	R
194	27193	5	R
195	27760	9	R
196	27865	5	R
197	27964	10	NR
198	28087	7	R
199	28524	5	R
200	28596	9	R
201	28774	1	R
202	28974	5	R
203	29094	5	R
204	29490	2	R
205	29696	8	R
206	29858	3	NR
207	29885	5	R
208	30451	5	R
209	30558	7	R
210	30795	5	R
211	30830	4	R
212	31049	8	R
213	31214	2	R
214	31216	6	R
215	31315	10	R
216	31378	2	R
217	31443	9	R
218	31552	5	R
219	31626	3	R
220	31976	5	R
221	32196	4	R
222	32351	3	R
223	32450	7	R
224	32463	6	R
225	32479	4	R
226	32507	7	NR
227	32542	7	R

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228	32717	2	NA
229	32761	2	R
230	33255	10	R
231	33293	5	R
232	33429	3	R
233	33845	3	R
234	33886	6	R
235	33897	1	IN
236	33982	4	R
237	34244	6	R
238	34406	2	R
239	34599	9	R
240	34710	9	R
241	34714	10	R
242	34794	10	R
243	34869	1	R
244	34893	5	R
245	35297	7	R
246	35418	1	R
247	35651	9	R
248	35919	5	R
249	36006	1	R
250	36032	1	R
251	36232	3	R
252	36370	5	R
253	36759	6	R
254	36764	8	R
255	36765	9	R
256	36861	7	R
257	37030	9	R
258	37041	2	R
259	37168	10	R
260	37350	2	R
261	37425	3	R
262	37432	7	OC
263	37823	2	R
264	37926	5	R
265	37933	2	R
266	37972	1	R
267	38317	1	R
268	38449	9	R
269	38655	5	R
270	38692	7	R
271	38960	4	R
272	38968	2	NA
273	39272	1	R
274	39462	1	R

275	39603	8	R
276	39707	5	R
277	40196	1	R
278	40679	4	R
279	40727	3	R
280	41338	4	R
281	41465	2	R
282	41663	10	R
283	41902	1	R
284	41912	1	R
285	41931	6	R
286	41937	8	R
287	42256	1	R
288	42329	6	R
289	42419	9	R
290	42668	2	R
291	42802	6	R
292	43108	7	R
293	43191	6	R
294	43409	8	R
295	43441	2	R
296	43959	4	R
297	43973	5	R
298	44384	4	NR
299	44471	3	R
300	44994	4	R
301	44997	1	R
302	45255	6	R
303	45288	10	R
304	45307	3	R
305	45603	2	R
306	45859	1	R
307	46199	1	R
308	46203	1	R
309	46327	10	R
310	46586	5	R
311	46723	7	R
312	46970	4	R
313	46970	5	R
314	47156	5	R
315	47239	3	NR
316	47369	7	R
317	47464	2	R
318	47480	8	NR
319	47544	3	R
320	47571	5	R
321	47645	2	R

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322	47751	1	R
323	47765	4	R
324	47777	1	R
325	47819	5	R
326	47926	9	R
327	48181	4	R
328	48646	7	R
329	48941	4	R
330	49099	1	R
331	49194	6	R
332	49353	5	R
333	49366	4	R
334	49506	1	R
335	49540	8	R
336	49616	1	R
337	49763	4	R
338	49931	3	NR
339	49939	1	R
340	49962	2	R
341	50251	7	R
342	50513	9	R
343	50579	9	R
344	50646	10	R
345	50857	8	R
346	50904	3	R
347	51294	6	R
348	51346	5	R
349	51543	1	R
350	51770	3	R
351	51774	1	R
352	51979	7	R
353	51995	3	R
354	52011	9	R
355	52123	1	R
356	52253	6	R
357	52480	8	R
358	52493	9	R
359	52493	8	R
360	52593	5	R
361	53357	5	R
362	53587	3	R
363	53638	9	R
364	53775	10	R
365	53914	3	R
366	54177	9	R
367	54201	4	R
368	54251	5	R

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369	54698	6	R
370	54861	7	R
371	54903	1	R
372	55098	3	R
373	55307	5	R
374	55568	4	R
375	55771	6	R
376	55831	1	R
377	56353	2	R
378	56452	5	R
379	56632	2	R
380	56640	1	R
381	56674	7	R
382	56866	2	R
383	56874	4	R
384	57002	10	R
385	57063	6	R
386	57259	1	R
387	57296	4	NR
388	57320	9	R
389	57324	7	R
390	57384	3	R
391	57451	5	R
392	57529	1	R
393	57609	2	R
394	57679	10	R
395	57987	8	R
396	58196	10	R
397	58254	2	R
398	58329	1	R
399	58428	5	R
400	58451	7	R
401	58507	4	R
402	58988	2	R
403	58989	4	R
404	59156	2	R
405	59229	7	R
406	59467	5	R
407	59957	3	R
408	60044	10	R
409	60098	2	R
410	60157	7	R
411	60424	1	R
412	60428	9	R
413	60505	4	R
414	60792	3	R
415	60924	2	R

416	61098	6	R
417	61099	7	R
418	61295	1	R
419	61393	2	R
420	61395	7	R
421	61459	2	R
422	61715	10	R
423	62265	6	R
424	62744	9	R
425	62805	6	R
426	62927	2	OC
427	63090	2	R
428	63274	7	NR
429	63409	2	R
430	63428	7	R
431	63467	5	R
432	63930	1	R
433	64010	3	R
434	64107	2	R
435	64108	5	R
436	64185	9	R
437	64273	7	R
438	64275	2	IN
439	64279	2	R
440	64680	8	R
441	64988	6	R
442	65004	1	R
443	65164	3	R
444	65215	8	R
445	65426	7	OC
446	65515	8	R
447	65605	1	R
448	65875	1	NR
449	65954	1	R
450	65959	1	R
451	66571	5	R
452	66600	2	R
453	66934	7	R
454	67146	6	R
455	67482	7	R
456	67740	1	R
457	67930	10	R
458	67948	1	R
459	68034	5	R
460	68056	5	R
461	68213	1	R
462	68325	4	R

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463	68590	4	R
464	68644	5	NR
465	68779	1	R
466	68811	3	R
467	69058	2	R
468	69070	9	R
469	69087	7	R
470	69253	3	R
471	69367	1	R
472	69431	5	R
473	69562	3	R
474	69625	4	R
475	70077	6	R
476	70471	8	SDC
477	70556	1	R
478	70786	2	R
479	70873	9	IN
480	71006	10	R
481	71093	6	R
482	71269	3	R
483	71278	5	R
484	71308	2	R
485	71488	10	R
486	71859	8	R
487	71932	4	R
488	71947	9	R
489	72548	8	R
490	72630	2	R
491	72771	1	R
492	72780	3	R
493	72813	6	R
494	72855	2	R
495	72904	3	R
496	72956	1	R
497	73129	2	R
498	73247	8	R
499	73692	6	R
500	73693	7	R
501	73791	10	R
502	73889	1	R
503	74006	5	R
504	74019	6	R
505	74114	1	NR

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Exhibit D

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STATE OF MICHIGAN
 RUTH JOHNSON, SECRETARY OF STATE
 DEPARTMENT OF STATE
 LANSING

April 23, 2018

STAFF REPORT:
**COALITION TO REGULATE MARIJUANA
 LIKE ALCOHOL PETITION**

SPONSOR: Coalition to Regulate Marijuana Like Alcohol, 2570 Champlain Street NWE, Suite 12, Washington, D.C. 20009.

DATE OF FILING: November 20, 2017.

NUMBER OF VALID SIGNATURES REQUIRED: 252,523 signatures.

TOTAL FILING: 59,601 sheets containing 365,384 signatures.

SIGNATURE SAMPLE

EXCLUDED FROM SAMPLE: 1,022 sheets containing 3,282 signatures.

	<u>Sheets</u>	<u>Signatures</u>
Torn, mutilated, or damaged sheets:	10	53
Defective circulator certificate: (Omitted or incorrect date, failure of out-of-state circulator to check box)	147	872
Jurisdiction error: (Invalid jurisdiction entry by circulator or every signer on sheet)	865	2,357
TOTAL:	1,022	3,282

INCLUDED IN SAMPLE: 58,579 sheets containing 362,102 signatures (the universe).

The two-stage sampling process was selected for the canvass of this petition. Under the Board's established procedures, a small sample is drawn (approximately 500 signatures) at the first stage, and the result of that sample determines whether there is a sufficient level of confidence in the result to immediately recommend certification or the denial of certification. If instead the result of the small sample indicates a "close call," a second random sample must be taken to provide a result with the maximum confidence level that can be obtained.

RECEIVED by MCOA 5/10/2018 3:04:43 PM

NUMBER OF SAMPLED SIGNATURES: 500 signatures.

SAMPLE RESULT: 383 valid signatures; 117 invalid signatures.

Valid signatures

Registered signers; signatures verified: 383

Invalid signatures

Signatures determined invalid due to signer's registration status: 62

Dual jurisdiction entries: 29

Other jurisdiction errors (no jurisdiction by that name located in county listed in heading, address given is located outside of the listed jurisdiction): 19

Signature errors (missing or incomplete signatures, non-matching signatures): 5

Date errors (incorrect or omitted date, signature dated after circulator's signature): 2

Total 500

The standard ten business day challenge period elapsed on February 9, 2018 without an opponent having filed a challenge against this petition.

FINAL RESULT OF SIGNATURE SAMPLE

<u>Number of valid signatures</u>	<u>Formula Result</u>
365 or more	Certify
334 – 364	Sample more signatures
333 or fewer	Deny certification

ESTIMATED NUMBER OF VALID SIGNATURES CONTAINED ON PETITION: Based on the results of the random sample, it is estimated that the petition contains 277,370 valid signatures (at a confidence level of 99.96%).

STAFF RECOMMENDATION

Staff recommends that the Board certify the petition.

EXHIBIT B



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

-- NOTICE --

YOU ARE HEREBY NOTIFIED THAT THE BOARD OF STATE CANVASSERS WILL CONDUCT A MEETING ON MAY 10, 2018 AT 2:00 P.M. IN ROOM 426 OF THE STATE CAPITOL BUILDING, LANSING, MICHIGAN.

Included on the Agenda will be:

- Consideration of meeting minutes for approval.
- Consideration of multiple proposed modifications to the Verity voting system submitted by Hart InterCivic. (The proposed changes would: (1) Enable the use of longer ballots, up to 20 inches in length; (2) For purposes of the Presidential Primary only, place the "Uncommitted" position at the end of the list of candidates; and (3) Improve touch screen device calibration procedures.)
- Consideration of a proposed *de minimis* modification to the election management system software and firmware firewall submitted by ES&S. (The proposed change would upgrade the security features of the firewall.)
- Consideration of the form of the initiative petition submitted by Clean Energy, Healthy Michigan, P.O. Box 71746, Madison Heights, Michigan 48071.
- Such other and further business as may be properly presented to the Board.

Sally Williams, Secretary
Board of State Canvassers

A person may address the Board on any agenda item at the end of the meeting. A person who wishes to address the Board on an agenda item at the time the item is being discussed must submit a written request to the Chairperson of the Board prior to the opening of the meeting. Persons addressing the Board are allotted three minutes.

People with disabilities needing accommodations for effective participation in this meeting should email elections@michigan.gov or contact Lydia Valles at (517) 241-4662.

EXHIBIT C

BOARD OF STATE CANVASSERS MEETING

May 10, 2018

Prepared by

Network*Reporting* 
— STATEWIDE COURT REPORTERS

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STATE OF MICHIGAN

DEPARTMENT OF STATE

RUTH JOHNSON, SECRETARY OF STATE

BOARD OF STATE CANVASSERS MEETING

State Capitol Building, Room 426, Lansing, Michigan

Thursday, May 10, 2018, 2:00 p.m.

BOARD: MR. NORMAN D. SHINKLE - Chair
MS. JULIE MATUZAK - Vice Chair
MS. COLLEEN PERO - Board Member
MS. JEANNETTE BRADSHAW - Board Member
MS. SALLY WILLIAMS - Elections Director
MS. MELISSA MALERMAN - Elections Staff

APPEARANCES:

For the State: MS. DENISE C. BARTON (P41535)
Assistant Attorney General
525 West Ottawa Street
Lansing, Michigan 48909
(517) 373-1110

RECORDED BY: Sandra K. Bolton, CER 3193
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5	2. Consideration of Meeting Minutes.	4
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7	3. Consideration of multiple proposed modifications to	
8	the Verity voting system submitted by Hart InterCivic.	
9	(The proposed changes would: (1) Enable the use of	
10	longer ballots, up to 20 inches in length; (2) For	
11	purposes of the Presidential Primary only, place the	
12	"Uncommitted" position at the end of the list of	
13	candidates; and (3) Improve touch screen device	
14	calibration procedures.)	5
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16	4. Consideration of a proposed de minimis modification	
17	to the election management system software and	
18	firmware firewall submitted by ES&S. (The proposed	
19	change would upgrade the security features of the	
20	firewall.)	11
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22	5. Consideration of the form of the initiative petition	
23	submitted by Clean Energy, Healthy Michigan, P.O.	
24	Box 71746, Madison Heights, Michigan 48071.	15
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30	Statement by Ms. Kathryn Fahey	20
31	Statement by Mr. James Lancaster	21
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1 MS. WILLIAMS: And the constitutional amendment
2 has until July 9th.

3 MS. MATUZAK: Thank you.

4 MR. SHINKLE: Okay. Now, we have number six on
5 the agenda. Any other business before the Board? We have
6 two cards that wish to speak to number six. I'm not sure
7 which one came in first. I'm going to ask James Lancaster
8 to come up, and since you're not speaking specifically on an
9 item, you don't need to get sworn in. Who are you bringing
10 with you there?

11 MR. JAMES LANCASTER: I'm bringing the executive
12 director of Voters Not Politicians, Katie Fahey, and I'd
13 like to defer to her.

14 MR. SHINKLE: Okay. For the record -- would you
15 please both spell your names for the record? Thank you.

16 MS. KATHRYN FAHEY: Yeah. So it's Kathryn Fahey;
17 K-a-t-h-r-y-n and then F-a-h-e-y.

18 MR. JAMES LANCASTER: And I'm James Lancaster;
19 that's L-a-n-c-a-s-t-e-r.

20 MR. SHINKLE: Okay. Go ahead.

21 MS. KATHRYN FAHEY: All right. So it's great to
22 see you guys again. I saw you back last summer. And I'm
23 Katie Fahey, the founder and executive director of Voters
24 Not Politicians Committee, the redistricting proposal. We
25 had a tremendous response from our volunteers after we got

1 our form approval for gathering signatures to place our
2 petition onto the ballot. We actually ended up gathering
3 425,000 signatures in a 110 days, with representation from
4 all 83 Michigan counties. On Monday, December 18th, we
5 turned those in, and it has now been 100 and -- over 140
6 days since we have heard on our -- their page and status.

7 The people of Michigan have worked really hard to
8 put this initiative onto the ballot and I think we deserve
9 the opportunity to vote on it. So I'd like to turn it over,
10 actually, to our campaign legal counsel, James Lancaster, to
11 get a few thoughts on the status of the legal -- the legal
12 status of it.

13 MR. JAMES LANCASTER: Thank you, Mr. Chairman,
14 Board members. I am Jim Lancaster, and I am the general
15 counsel for Voters Not Politicians ballot committee. As I
16 hope all the Board members are aware, I delivered to the
17 Elections Bureau a week ago a letter to Chairperson Shinkle
18 asking the Board to certify the proposal sponsored by Voters
19 Not Politicians. I'm not here to read that letter verbatim.
20 Rather, I just want to highlight a few points because we
21 were disappointed that we weren't on the agenda here and
22 we've just seen some of the delays that have happened.
23 We're just concerned about moving the process forward.

24 Now, you know the Board established a deadline of
25 April 26th for challenges to the signature sample. No

1 challenges were filed. Our consultant, Practical Political
2 Consulting, analyzed those 505 signatures in the sample and
3 determined that 466 are valid, a validity rate of 92.2
4 percent. The preliminary analysis that we were provided by
5 the Election Bureau also determined that there were 466
6 valid signatures.

7 At your last meeting, the Board considered the
8 petitions submitted by the Coalition to Regulate Marijuana
9 Like Alcohol. The Elections Bureau in that case, out of 500
10 samples, determined there were 366 valid signatures out of
11 500, a validity rate of 73 percent, which is enough that it
12 caused the Election Bureau to recommend certification of
13 the petition, which, of course, the Board did. The VNP
14 proposal has 100 more valid signatures on a similar ballot,
15 uncontested sample size.

16 Now, we all are aware, of course, that there's a
17 lawsuit that was filed by the Citizens Protecting Michigan's
18 Constitution; however, there's been no injunction requested
19 as to any further action by the Board. There's been no stay
20 sought. And, in fact, in the protest that Mr. Ellsworth
21 filed with this Board he pretty much conceded that the
22 issues he is raising are not within the jurisdiction of this
23 Board; and again, he did not contest the signatures.

24 So I would respectfully assert that the Board has
25 a clear, legal duty to certify our proposal, which is what

1 I'm asking you to do here today. With respect to this
2 request, I have a couple of questions to the staff present
3 and then for the Board.

4 First, while it's my understanding the Bureau has
5 not given a formal written staff report regarding the VNP
6 petitions, I'd ask either Ms. Williams or Ms. Malerman,
7 whoever would be appropriate, is there any doubt that the
8 Board will be recommending certification that Voters Not
9 Politicians -- or recommend certification of the VNP
10 proposal? Second, I would ask Ms. Barton, your counsel,
11 does she disagree with my analysis at this point that the
12 Board has a clear legal duty to certify the petition?
13 Assuming the answer to both of these questions is "no," I
14 reiterate my request to the Board to properly certify the
15 VNP proposal today, or, if not, if you'll tell us why you
16 won't or at least, at the minimum, commit to us within the
17 next two weeks to convene and certify our petitions.

18 Thank you for your time and consideration, and if
19 you have any questions I'd be glad to answer them.

20 MR. SHINKLE: Well, Mr. Lancaster, we do have a
21 meeting scheduled for May 24th. That's our next scheduled
22 meeting. It's not on our agenda today. Sally, can you give
23 us a status on this particular petition?

24 MS. WILLIAMS: I can do that. So as Mr. Lancaster
25 stated, the challenges were due April 26th, which was two

1 weeks ago. They were provided with a preliminary listing of
2 our signature findings on April 16th, at which time we
3 notified them that we weren't yet done, but this is --

4 MS. PERO: I'm sorry. Who is --

5 MS. WILLIAMS: I'm sorry. The Voters Not
6 Politicians group.

7 MS. PERO: Oh, okay.

8 MS. WILLIAMS: And I believe the challengers as
9 well were provided with our spreadsheets, a common practice
10 when we are nearing completion of the signature review
11 process. We told them at that time we weren't completely
12 done yet, but we were getting close, so we provided that,
13 and that's what he is referring. I would just mention,
14 obviously, we have not done a staff report yet. You will
15 have that in front of you. Obviously, you must have that in
16 front of you before you take action. So, you know, I think
17 we're all aware that we're not prepared for you to take
18 action today.

19 But with regard to a delay or our plans, we are
20 continuing to move forward. We have not stopped. We have,
21 though, in the meantime dealt with a few hundred candidate
22 filings. We have mandated deadlines for those challenge
23 deadlines. We have mandated deadlines for our staff to
24 continue completion of processing a canvassing of all of
25 those candidate filings of which, aside from the -- I think

1 a million signatures we have in our office for the first
2 three ballot initiatives, we have another three quarter of a
3 million signatures in our office being processed by a
4 handful of people.

5 So I apologize that it's not moving as quickly as
6 you would like, but I can promise you we are not sitting on
7 this. We are continuing to move forward. As for what our
8 staff report will say, I really can't speak to that yet. We
9 haven't drafted it yet. Oh, and we had an election on
10 Tuesday this week as well, which kept us busy.

11 MR. SHINKLE: I know you work on things as they
12 come in, and that includes candidate petitions. But all
13 that being said, is there any reason this wouldn't be on our
14 calendar, on our agenda for May 24th?

15 MS. WILLIAMS: I can't really say for sure. It
16 just depends on our ability to complete what we must
17 complete on candidate filings as well. There are different
18 people working on different things, and we are certainly
19 committed to work towards having a staff report ready for
20 this.

21 MS. PERO: So I think the marijuana petition that
22 we certified in our last meeting, those signatures were
23 turned in approximately a month before Voters Not
24 Politicians; right?

25 MS. WILLIAMS: That is true. I would also note on

1 the numbers, this Voters Not Politicians petition is a
2 constitutional amendment, so the thresholds and the required
3 number of signatures are much different, that's right.

4 MS. PERO: Understood.

5 MR. JAMES LANCASTER: But could I ask a question?
6 But in terms of -- as I understand the statistical model you
7 use, since the marijuana had a 500 sample -- a 500 sample,
8 we have 505 -- wouldn't the threshold for recommending
9 approval be the same? Because, even though we have to turn
10 in more signatures, the sample size is the same. Again, my
11 understanding is the way you analyze it statistically that,
12 still, we wouldn't be required to have -- require more than
13 what the marijuana petition had in terms of ballot
14 signatures in the sample itself?

15 MS. WILLIAMS: The statistic, it sent you the
16 portion of valid signatures, and that proportion also
17 involves the number of signatures that are required. So
18 it's not an apples-to-apples comparison when you have
19 different thresholds for the required number of signatures.

20 MR. JAMES LANCASTER: Well, we can talk more about
21 that later. I do want to say, Mr. Chairman, that we really
22 appreciate all the work that the Election Bureau has done
23 and the cooperation we've received from it. And I certainly
24 recognize the fact that you have just ended an extraordinary
25 number of challenges to candidate petitions. So we do

1 recognize that. But having said that -- well,
2 obviously what we just want to do is get through this issue,
3 because it takes one more issue out of litigation and I
4 think at this point we'd just like to get this issue kind of
5 put to bed so --

6 MR. SHINKLE: Okay. Does anybody know what the
7 penalty is when you're registered to vote in more than one
8 state? Never mind. Okay. Thanks for coming in. I know
9 you were working on that Sally, on that particular issue.

10 MS. KATHRYN FAHEY: Yeah. Thank you.

11 MR. SHINKLE: Anything else -- you're welcome.
12 Anything else to come before the Board?

13 MS. MATUZAK: Just a question.

14 MR. SHINKLE: Go ahead.

15 MS. MATUZAK: I know, I'm full of questions today.
16 The -- and this goes back to voting machine equipment
17 software. I have once again been asked if there is any
18 movement to modifying any of these systems to use a ranking
19 system for voting? A couple of communities I know wish to
20 do that. I know that Representative Hoadley has got a bill
21 in the legislature to do that. I wonder if we have -- and I
22 know I brought it up at the last time because people keep
23 asking me about it, so I'm asking again.

24 MR. SHINKLE: What does "ranking" mean, like one
25 county is more important?

EXHIBIT D



May 14, 2018

VIA HAND DELIVERY

Sally Williams, Director
Bureau of Elections
Michigan Department of State
430 W. Allegan St.
Lansing, Michigan 48909

Re: Voters Not Politicians Ballot Committee

Dear Ms. Williams:

Following up on our discussion at the last Board of State Canvassers meeting, I want to provide you additional information that I hope will expedite your office's preparation of its staff report and recommendation regarding whether Voters Not Politicians Ballot Committee ("VNP") has sufficient signatures to be certified for the November 2018 General Election Ballot.

As you will recall, we briefly discussed the issue of the minimum number of signatures necessary to recommend certification in the signature sample the Bureau has drawn from the VNP petitions. The signature sample is 505. I had suggested, using by analogy, the report that the Bureau prepared for the Marijuana proposal, that VNP has submitted a sufficient number of signatures. I had asserted that since VNP has 100 more valid signatures than were required for the Marijuana petition (365), the VNP Proposal is clearly entitled to certification. You stated that this was not an apt analogy. I have since reviewed the guidance document that I understand the Bureau uses for determining the number of signatures necessary in a sample to justify certification of the proposal: Random Sample Signature Canvassing in Michigan (1990) (the "Guidance Document"). This document was provided to us several weeks ago by Bureau staff.

I acknowledge that your statement at the meeting was correct; it was not appropriate to use the Marijuana petition numbers by analogy.¹ So, I have completed my own calculation based on the details of our petition and the algorithm in the Guidance Document. Attached is a copy of Appendix A to the Guidance Document, along with my calculations based on the algorithms in Appendix A.

¹ The sponsors of the Coalition submitted 362,102 signatures that were included their sample. They were required to submit 252,523 valid signatures, thus requiring that 69.7% of their signatures be valid. VNP submitted 427,075 signatures that were included in the sample, and is required to submit 315,654 valid signatures, thus requiring 73.9% of its signatures to be valid.

Phone: (517) 285-4737

P.O. Box 10006
Lansing, Michigan 48901

lanaster-law@comcast.net

My calculations are handwritten; I hope they are sufficiently legible. My calculations are based upon the following inputs to the algorithm:

- Minimum number of signatures necessary: 315,654
- Number of signatures included in the sample: 427,075
- The proportion of signatures submitted which are required to be valid (Variable "Pr"; 315,654 divided by 427,075)
- Sample size of 505 (Variable "n")

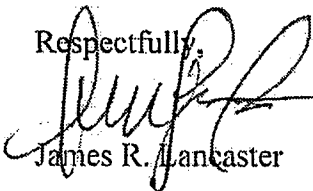
Based on my calculations, if they are correct, in order to recommend certification of the VNP Proposal, it is necessary for there to be 388 valid signatures in the sample. VNP has 466 valid signatures in its sample; 78 more than necessary for certification.

I have a fairly high degree of confidence in these calculations because I was able to replicate the calculation that the Bureau made for the minimum number of signatures necessary to recommend certification of the Marijuana petition. I have also attached my handwritten calculations with respect to the Marijuana petition, and the staff report for the Marijuana petition, for your convenience.

If you feel my calculations are in error, I would welcome an opportunity to discuss this further. However, assuming my calculations are correct, I respectfully request that:

- The Bureau, as soon as possible, prepare a staff report regarding the Voters Not Politicians Ballot Committee proposal.
- The Bureau recommend to the Board of State Canvassers that the VNP Proposal be certified for the November 2018 General Election Ballot, and
- The Bureau place this matter on the agenda for the May 24, 2018 Board of State Canvassers meeting.

Respectfully,



James R. Lancaster

cc: Norman D. Shinkle
Colleen Pero
Jeanette Bradshaw
Julie Matuzak
Melissa Malerman

APPENDIX A

MATHEMATICAL DESCRIPTION OF SAMPLING PLAN B (TWO-STAGE SAMPLING)

Let n_1 be the first step sample size. As described here Plan B always has $n_1 = 500$. Let X_1 be the number of valid signatures among these n_1 . Let n_2 be the second step sample size, and let X_2 be the number of valid signatures among these n_2 .

Plan B chooses two integers c_1 and c_2 , with $c_1 < c_2$, as follows:

$$c_1 = [n_1(P_R + .01) + 0.5 - 1.96 \{(P_R + .01)(1 - P_R - .01)n_1\}^{1/2}]$$

$$c_2 = [n_1(P_R - .01) + 0.5 + 1.96 \{(P_R - .01)(1 - P_R + .01)n_1\}^{1/2}]$$

For $X_1 \leq c_1$, certification is denied.

For $X_1 \geq c_2$, certification is approved.

For $c_1 < X_1 < c_2$, a second step sample is taken.

c_1 and c_2 have been chosen so that:

$$P(X_1 \leq c_1) = P(\text{denial of certification}) = .025 \text{ for } P = P_R + .01$$

$$P(X_1 \geq c_2) = P(\text{certification}) = .025 \text{ for } P = P_R - .01$$

After the second step sample, the certification is approved if:

$$\hat{p} = (X_1 + X_2) / (n_1 + n_2) \geq P_R$$

Let $P_1 = P(X_1 \geq c_2)$ and $P_2 = P(c_1 < X_1 < c_2, \hat{p} \geq P_R)$. Then

$$P_c = P(\text{certification}) = P_1 + P_2$$

n_2 is chosen so that:

$$P_c = P(\text{certification}) \quad \begin{aligned} &= .10 \text{ for } P = P_R - .01 \\ &= .90 \text{ for } P = P_R + .01 \end{aligned}$$

Calculation of c_2 Based in Formula in Appendix A:
 Mathematical Description of Sampling Plan B (Two-Stage Sampling)
 For Voters Not Politicians Ballot Committee

$$c_2 = 505 (0.739 - 0.01) + 0.5 + 1.96 \left\{ (0.739 - 0.01)(1 - 0.739 + 0.01) 505 \right\}^{1/2}$$

$$505 (0.739) + 0.5 + 1.96 \left\{ (0.729)(0.271) 505 \right\}^{1/2}$$

$$368.15 + 0.5 + 1.96 \left\{ 99.73 \right\}^{1/2}$$

$$368.65 + 1.96 \left\{ 9.9 \right\}$$

$$368.65 + 19.40$$

$$388.05$$

Calculation of c_1 Based in Formula in Appendix A:
 Mathematical Description of Sampling Plan B (Two-Stage Sampling)
 For Voters Not Politicians Ballot Committee

$$c_1 = \frac{505(0.739 + 0.01) + 0.5 - 1.96 \{ (0.739 + 0.01)(1.0 - 0.739 - 0.01) 505 \}^{1/2}}{}$$

$$\frac{505(0.749) + 0.5 - 1.96 \{ (0.749)(0.25) 505 \}^{1/2}}{}$$

$$\frac{378.25 + 0.5 - 1.96(94.99)^{1/2}}{}$$

$$\frac{378.75 - 196(9.74)}{}$$

$$\frac{378.75 - 19.09}{}$$

359.66

EXHIBIT E



STATE OF MICHIGAN
 RUTH JOHNSON, SECRETARY OF STATE
 DEPARTMENT OF STATE
 LANSING

May 22, 2018

STAFF REPORT:
VOTERS NOT POLITICIANS
CONSTITUTIONAL AMENDMENT PETITION

SPONSOR: Voters Not Politicians (VNP), P.O. Box 8362, Grand Rapids, Michigan 49518.

DATE OF FILING: December 18, 2017.

NUMBER OF VALID SIGNATURES REQUIRED: 315,654 signatures.

TOTAL FILING: 74,295 sheets containing 427,075 signatures.

SIGNATURE SAMPLE

EXCLUDED FROM SAMPLE: 562 sheets containing 1,865 signatures.

	<u>Sheets</u>	<u>Signatures</u>
Torn, mutilated, or damaged sheets:	16	70
Circulator errors: (Omitted or incorrect date, etc.)	120	749
Signer errors: (Invalid jurisdiction, address or date entry by every signer on sheet)	320	1,046
Sheets with every entry crossed out prior to filing:	106	0
TOTAL:	562	1,865

INCLUDED IN SAMPLE: 73,733 sheets containing 425,210 signatures (the universe).

The two-stage sampling process was selected for the canvass of this petition. Using the Board’s established procedures, staff draws a small sample (approximately 500 signatures) at the first stage, and the result of that sample determines whether there is a sufficient level of confidence in the result to immediately recommend certification or the denial of certification. If, instead, the result of the small sample indicates a “close call,” a second random sample is taken to obtain a result with the maximum confidence level possible.

NUMBER OF SAMPLED SIGNATURES: 505 signatures.

SAMPLE RESULT: 466 valid signatures; 39 invalid signatures.

Valid signatures

Registered signers; signatures verified: 466

Invalid signatures

Signatures determined invalid due to signer's registration status: 25

Other jurisdiction or address errors (address given is located outside of the listed jurisdiction, missing or incomplete address): 6

Signature errors (missing or incomplete signatures, non-matching signatures): 6

Date errors (incorrect or omitted date, signature dated after circulator's signature): 2

Total 505

A challenge was timely filed on April 26, 2018 by Citizens Protecting Michigan's Constitution (CPMC), which does not dispute the genuineness or validity of signatures within the sample. Instead, CPMC alleges that the form of the petition fails to comply with the republication requirement of MCL 168.482(3), as the petition allegedly omits at least four constitutional provisions identified by CPMC which would be abrogated by the proposal if adopted. As the challenge explains,¹

CPMC believes the subject matter of this challenge is within the jurisdiction of Michigan's courts. This challenge is filed as a precautionary measure in the event that a court determines otherwise. On April 25, 2018, CPMC, joined by two individual plaintiffs, filed a complaint for mandamus in the Michigan Court of Appeals, seeking an order requiring the Secretary of State and Board of State Canvassers to reject the initiative petition and take no further action to place the VNP Proposal on the 2018 general election ballot. ... CPMC thus requests that the Board take no further action on the VNP Proposal at this time, and await a determination from the Court of Appeals with respect to its complaint for mandamus.

On May 3, 2018, VNP filed a response to the challenge stating:²

The ballot question committee sponsored by the Michigan Chamber of Commerce, [CPMC], has filed a challenge which raises only legal issues, which it has acknowledged are outside of the jurisdiction of the Board. CPMC has also filed a lawsuit with the Michigan Court of Appeals raising the same issues. However, these actions are irrelevant to the Board's clear legal duty of [sic] certify the VNP Proposal.

¹ Challenge of Citizens Protecting Michigan's Constitution Regarding the VNP Petition's Failure to Republish Abrogated Sections of the Existing Constitution, April 26, 2018, pp. 1-2, 3.

² Letter of VNP Counsel to the Board of State Canvassers, May 3, 2018, pp. 1-2.

FINAL RESULT OF SIGNATURE SAMPLE

<u>Number of valid signatures</u>	<u>Formula Result</u>
389 or more	Certify
359 – 388	Sample more signatures
358 or fewer	Deny certification

ESTIMATED NUMBER OF VALID SIGNATURES CONTAINED ON PETITION: Based on the results of the random sample, it is estimated that the petition contains 394,092 valid signatures (at a confidence level of 100%).

STAFF RECOMMENDATION

When the Board unanimously approved the VNP petition as to form on August 17, 2017, it stated that “the Board’s approval does not extend to ... (4) whether the petition properly characterizes those provisions of the Constitution that have been altered or abrogated.”

In view of the Board’s motion and the parties’ apparent agreement that the legal issues regarding the form of the petition are properly before the courts, staff recommends that the Board **certify** the petition.

EXHIBIT F

From: Michigan Secretary of State <MISOS@govsubscriptions.michigan.gov>

Reply-To: "MISOS@govsubscriptions.michigan.gov" <MISOS@govsubscriptions.michigan.gov>

Date: Tuesday, May 22, 2018 at 9:42 AM

To: Elizabeth Battiste <ebattiste@martinwaymire.com>

Subject: NEWS RELEASE: Board of State Canvassers to meet Thursday, May 24

Board of State Canvassers to meet Thursday, May 24

The Board of State Canvassers will meet at 10:00 A.M in Room 426 of the State Capitol in Lansing.

Included on the agenda will be:

- Consideration of meeting minutes for approval.
- Consideration of the constitutional amendment petition filed by Voters Not Politicians (VNP), P.O. Box 8362, Grand Rapids, Michigan 49518.
- Such other and further business as may be properly presented to the Board.

Attending and speaking at a Board of State Canvassers meeting

A person may address the Board on any agenda item at the end of the meeting. A person who wishes to address the Board on an agenda item at the time the item is being discussed must submit a written request to the Chairperson of the Board prior to the opening of the meeting. Persons addressing the Board are allotted three minutes.

People with disabilities needing accommodations for effective participation in this meeting should email elections@michigan.gov or contact Lydia Valles at (517) 241-4662.

Having trouble viewing this email?

Michigan Department of State
430 W. Allegan St., Lansing MI 48918
www.Michigan.gov/sos

EXHIBIT G



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

- - - CANCELLED - - -

-- NOTICE --

YOU ARE HEREBY NOTIFIED THAT THE BOARD OF STATE CANVASSERS WILL CONDUCT A HEARING ON MAY 24, 2018 AT 10:00 A.M. IN ROOM 426 OF THE STATE CAPITOL BUILDING, LANSING, MICHIGAN.

Included on the Agenda will be:

- Consideration of meeting minutes for approval.
- Consideration of the constitutional amendment petition filed by Voters Not Politicians (VNP), P.O. Box 8362, Grand Rapids, Michigan 49518.
- Such other and further business as may be properly presented to the Board.

Sally Williams, Secretary
Board of State Canvassers

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EXHIBIT H

----- Original Message -----

From: James Lancaster <lancaster-law@comcast.net>

To: ShinkleN@michigan.gov

Date: May 23, 2018 at 5:38 PM

Subject: Cancellation of May 24 Board of State Canvassers meeting

Chairperson Shinkle: I have been informed that you exercised your discretion as Chair of the Board to cancel tomorrow's meeting.

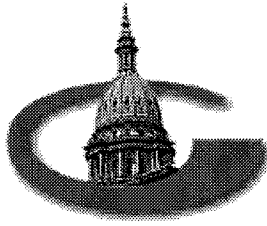
Could you explain to me why you chose to do that?

It is also my understanding that your next Board meeting will be June 1. Will the Voters Not Politicians proposal be on the agenda at that meeting?

I would appreciate your prompt attention and response.

James R. Lancaster
Lancaster Associates PLC
(517) 285-4737

EXHIBIT I



GONGWER Michigan
The Capitol Record Since 1906

Volume #57, Report #101 -- Wednesday, May 23, 2018

House Set To Act On Sexual Assault Bills

The House Law and Justice Committee sent to the full House a slew of bills seeking to prevent sexual assaults with some last minute additions Wednesday adding athletic trainers back to the list of mandatory reporters after removing them and further extending the criminal statute of limitations for minor victims.

The committee reported nearly 30 bills inspired by the Larry Nassar sex scandal at Michigan State University including legislation that came over from the Senate extending the statute of limitations for civil and criminal cases of sexual assault. Those bills were changed from the Senate version to reduce the statute of limitations from what was originally proposed but still extended from current law.

The bills are expected to come up before the full House on Thursday.

Legislation expanding those who would be required to report suspected child abuse and neglect changed Wednesday after the committee on Tuesday moved to extend the reporting requirements to only physical therapists and their assistants. On Wednesday, the panel added athletic trainers back to the bill.

Rep. Klint Kesto (R-West Bloomfield), chair of the committee, said athletic trainers asked to be included in the bill and he and other members were working to see if it would be appropriate up until the amendment was adopted.

The panel also changed SB 871, which extends the statute of limitations in second- and third- degree criminal sexual assault cases. Instead of a minor victim having until age 21 to bring forward a charge, they would have until age 28.

On SB 872, dealing with the civil statute of limitations, Rep. Frank Liberati (D-Allen Park) offered an amendment Wednesday that would have taken language out of the bill extending the civil statute of limitations for criminal sexual conduct retroactively if the abuser had admitted to using their position of authority over the victim or they engaged in purported medical treatment that is unethical or unacceptable.

Mr. Liberati said that provision does not give all sexual assault victims access to the justice system retroactively. It appears it would apply only to those abused by Larry Nassar while he was a physician in Michigan.

Under the House version of the bill, minor victims of criminal sexual conduct between 1997 and 2016 would have 90 days after the bill takes effect to file civil suit against a person who allegedly committed the criminal sexual conduct if they were convicted of first-degree criminal sexual conduct against any person and admitted to the provision Mr. Liberati attempted to remove. The amendment was defeated.

Mr. Kesto said the amendment came at the last minute and the compromise was already in place.

Rep. Stephanie Chang (D-Detroit), who abstained from Mr. Liberati's amendment, said she is a believer in the process the committee used on the compromise for each of the bills.

The bills would be a "long-needed update" to HIV legislation, much of which was written before lawmakers and medical experts really understood the disease and how to manage it, said Dr. Eden Wells, the state's chief medical executive.

HB 6018, sponsored by committee chair Rep. Hank Vaupel (R-Handy Township), would reduce the requirements on health care providers to provide pre- and post-HIV test counseling. It would also only require documentation of a patient's refusal of an HIV test.

Rep. Abdullah Hammoud's (D-Dearborn) HB 6019 would remove the term "serious communicable disease" in relation to HIV, which prevents health care providers from disclosing any identifying information.

HB 6023, sponsored by Rep. Kevin Hertel (D-Saint Clair Shores), would remove a requirement that positive HIV tests be reported to the local health department within seven days. Electronic reporting has made it so that reporting can be done within 24 hours of diagnosis, Ms. Wells said.

Perhaps most controversial among Tuesday's committee attendees were Rep. Jon Hoadley's (D-Kalamazoo) bills, HB 6020 and 6021, to lessen the penalties for knowingly exposing uninfected persons to HIV.

Under HB 6020, someone infected with HIV who exposes an uninfected person to the disease could be convicted of a misdemeanor, not a felony as current law stipulates. HB 6021, to remove the felony described as "AIDS - sexual penetration with an uninformed partner," could not be enacted without HB 6020's passage.

The current law puts HIV-positive individuals at risk for major penalties for what often comes down to a "he-said, she-said" situation, Mr. Hoadley said in his testimony to the committee.

It also doesn't differentiate between someone with malicious intent and someone with less of a risk for transmission, he said.

HB 6020 would create "intent language," penalizing those who actively try to transmit HIV to unknowing sexual partners, Mr. Hoadley said. He added that simply being diagnosed could put individuals at risk for conviction under current law.

"The only way to ensure that you are never charged is to ensure that you're never tested," Mr. Hoadley said.

Rep. Edward Canfield (R-Sebewaing), sponsor of HB 6016 and HB 6017 to update the definition of HIV infection and remove a 90-day retention period on HIV records, testified in opposition to Mr. Hoadley's bills.

Mr. Canfield took issue with reducing the penalty for knowingly exposing others to the virus, saying that the offender could get off with little more than a \$1,000 fine while the victim would potentially face a lifetime with an incurable condition.

Rep. John Bizon (R-Battle Creek), sponsor of HB 6022 to mandate third-trimester HIV, syphilis and Hepatitis B testing, also said he wondered if reduction of penalties was appropriate. He did not voice explicit opposition to Mr. Hoadley's bills.

Alongside Ms. Wells, Dr. Betty Chu of the Michigan State Medical Society and Dr. Elizabeth Secord of the Wayne State University Children's Hospital testified in support of the full bill package. The Michigan Primary Care Association also spoke in support.

Canvassers Cancel Meeting To Consider Redistricting Petition

Thursday's scheduled meeting of the Board of State Canvassers has been canceled, baffling the backers of the ballot proposal to rework how the state redraws its legislative and congressional districts.

On the agenda for tomorrow's meeting was consideration of a petition filed by Voters Not Politicians to place the creation of an Independent Citizens Redistricting Commission on the November statewide ballot.

Board chair Norm Shinkle canceled the meeting "because there were legal filings this week that make it clear the board was under no immediate deadline to take up the matter," said Secretary of State spokesperson Fred Woodhams.

Katie Fahey, executive director of Voters Not Politicians, said the group was "very disappointed" that Shinkle decided to cancel when the only item on the agenda was certification of the initiative.

Since the Secretary of State determined on Tuesday that the group collected enough signatures required to bring the anti-gerrymandering initiative to a vote, the board has a clear legal duty to certify it, Fahey said.

In a fundraising appeal to supporters Wednesday night, Ms. Fahey called the cancellation of the meeting gamesmanship.

"To be perfectly honest, I had hoped that seeing thousands of voters uniting regardless of party from across the state would have inspired the board to act in a fair and transparent way, but I'm not surprised that we're seeing politics interfere - I'm just disappointed," she said.

DEQ Sues To Enforce Consent Decree With Ex-Defense Plant

A former U.S. Department of Defense manufacturing plant in Muskegon, where hazardous waste was produced and released for more than 50 years, is subject of a consent decree with the Michigan Department of Environmental Quality that will be subject to enforcement by a federal judge.

The DEQ filed suit Wednesday at the U.S. District Court in Grand Rapids against the U.S. Department of Defense; TDY Industries LLC, a former owner/operator of the site; and L3, Incorporated, which has owned the site since 2004. The Department of Defense owned and controlled a testing and manufacturing plant at the site for military aircraft and tank engines from the 1920s until 1972. TDY owned and operated the site from 1972-96, after which the DEQ said new contamination issues ceased.

According to the DEQ's complaint, from the early 1940s until 1996, hazardous waste was produced and released at the site. In 1980, it began operating as a hazardous waste storage facility.

"While monitoring and remediation have been performed at the site, the corrective measures taken have been insufficient to satisfy applicable cleanup criteria and screening values," the complaint says. "Additional investigation, monitoring and cleanup are still required in order to remove a variety of hazardous contaminants from environmental media at, and around the site, in order to mitigate environmental and human health risks at and around the site."

As part of the consent decree, the state is seeking recovery of the costs already incurred and to be incurred in responding to releases or the threat of releases of hazardous substances at or from the site.

As part of the consent decree, the defendants agree to correct various contamination issues.

The list of hazardous substances found at levels above cleanup criteria requirements is long and includes everything from cyanide to PCBs to mercury to lead to arsenic to trichloroethylene to chromium to benzene to selenium.

The plant is located about a quarter-mile south of the Muskegon River and a quarter-mile north of a creek that feeds into the Muskegon River, which feeds into Muskegon Lake, which feeds into Lake Michigan. It also is less than a half-mile from residential areas.

EXHIBIT J



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QUOTE OF THE DAY

"It seems like somebody is scratching and clawing to find relevance. Obviously, his own caucus didn't find relevance in his work. That's why they replaced him."

- Rep. Klint **KESTO** (R-Commerce Twp.) after former Minority Leader Tim **GREIMEL** (D-Auburn Hills) said Kesto "caved to reported pressure from the Michigan Catholic Conference" on what Greimel called the "Kesto's Pedophile Priest Loophole" or the Larry **NASSAR** response legislation.

Inside Today's MIRS

◀ Wednesday, May 23, 2018 ▶

Chatfield Taking Lead In House On Pot Legalization Question

Greimel Takes A Shot At Kesto As House Passes 28 Sex Assault Reform Bills

\$18M Health Insurance Tax Cut Shoots Through Panel, Full Senate By Lunch

Senate Approps Moves Marshall Plan, Changes To Follow

New Local Licensing Requirements On The Chopping Block

Plastic Water Pipe Bill Debate Switches To House

Goodbye Arrow; Welcome Back Ballot Box

Folks Can't Skirt Medicaid Costs With Spouse's Money

Reps Want To Ease Penalties For Failure To Disclose Being HIV Positive

Senate's 5-Foot Passing Bicyclist Distance To Shrink To 3

Former Detroit Police Department Commander, Officer Charged In Assault

GOP Canvasser Chair Cancels Meeting To Consider Redistricting Proposal

Defendants Must Be Present For Victim Statements Under New Law

State Leaders Press Pruitt, Feds On PFAS Study Suggesting Increased Risk

Should Molding Machine Manufacturer Have Foreseen Accident?

Bits And Tidbits

On This Day In Michigan History

House Action Report

Senate Action Report

Updated Calendar Events

MIRS Capitol Capsule Headlines

employment.

Person faces up to five years in prison if convicted as charged.

Both defendants are expected to be arraigned 10:30 a.m. Thursday in 36th District Court.

"It is disappointing that we have to level charges against one of the Detroit Police Department's top brass and yet another officer," Wayne County Prosecutor Kym **WORTHY** said. "These alleged actions do not represent the hard-working men and women who work each day to protect Detroit."

Authorities allege Leach, who was off-duty at the time, was working as a security guard around 3:40 a.m. March 11 at a restaurant in the 1400 block of Michigan Avenue when he "forcibly pushed" Karpovich, who fell to the ground and suffered a "significant head injury" that caused him to lose consciousness, as he tried to eject the man from the restaurant.

Medics at the scene transported Karpovich to a local hospital for treatment. He has since been released from the hospital, but continues to recuperate from his injuries, the prosecutor's office said.

GOP Canvasser Chair Cancels Meeting To Consider Redistricting Proposal

The Republican chair of the Board of State Canvassers (BSC) today canceled the board's Thursday meeting, which had consideration of the Voters Not Politicians (VNP) redistricting ballot proposal on the agenda.

Fred **WOODHAMS**, spokesperson for the Secretary of State (SOS), said BSC Chair Norm **SHINKLE** opted to cancel the meeting because there were "legal filings this week that make it clear the board was under no immediate deadline to take up the matter."

Shinkle is one of two Republicans on the BSC, with the other two members nominated by Democrats. Woodhams explained that Shinkle said, "the matter is before the courts" and he wanted resolution there before having the board move forward.

It was also noted that the filing deadline for constitutional amendments is in July and the BSC doesn't need to vote on them until September to make the November ballot.

VNP has been pushing for speedy certification by the BSC, and the SOS reported this week the initiative has enough signatures to be certified (See "SOS: Redistricting Proposal Has Enough Sigs For November Ballot," 5/22/18). The meeting with the VNP proposal on the agenda was announced Tuesday.

But opposing group Citizens Protecting Michigan's Constitution (CPMC) has lodged a legal challenge against the petition in the state Court of Appeals (COA) (See "Redistricting Reform Opponents Find 4 Constitutional Problems With VNP," 5/7/18).

So far, the CPMC's requests for oral arguments and more time to file briefs have been shut down by the COA (See "Appeals Court Denies CPMC Request For Delay In Redistricting Fight," 5/18/18).

CPMC has until 1 p.m. May 31 to file a response to a brief filed by VNP at the COA, said David **DOYLE**, spokesperson for CPMC.

VNP spokesperson Elizabeth **BATTISTE** said on Twitter in response today that the "Board of State Canvassers has one job: To make sure @NotPoliticians has enough valid signatures to make the ballot. We turned in 100,000 more than we needed. #LetThePeopleVote."

APPENDIX “B”



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

-- NOTICE --

**YOU ARE HEREBY NOTIFIED THAT THE BOARD OF STATE CANVASSERS
WILL CONDUCT A HEARING ON JUNE 1, 2018 AT 9:00 A.M.
IN ROOM 426 OF THE STATE CAPITOL BUILDING, LANSING, MICHIGAN**

Included on the Agenda will be:

- Consideration of meeting minutes for approval.
- Report on review of nominating petitions filed with the Secretary of State for the August 7, 2018 primary.
- Staff report on insufficient petitions submitted by candidates for the August 7, 2018 primary:
 - Matthew Morgan, candidate for U.S. Representative in Congress, 1st District.
 - Eponine Garrod, candidate for U.S. Representative in Congress, 6th District.
 - Kristine Bonds, candidate for U.S. Representative in Congress, 11th District.
- Consideration of challenges filed against nominating petitions submitted by candidates for the August 7, 2018 primary:
 - Shri Thanedar, candidate for Governor.
 - Nick Schiller, candidate for U.S. Representative in Congress, 2nd District.
 - Joe Farrington, candidate for U.S. Representative in Congress, 3rd District.
 - Paul Clements, candidate for U.S. Representative in Congress, 6th District.
 - Dan Haberman, candidate for U.S. Representative in Congress, 11th District.
 - Tracy Green, candidate for Judge of the 3rd Circuit Court, Regular Term/Non-Incumbent Position.
 - Tory Rocca, candidate for Judge of the 16th Circuit Court, New Judgeship.
 - Maria Zagorski, candidate for Judge of the 1st District Court, Regular Term/Non-Incumbent Position.
 - Paul Zybuski, candidate for Judge of the 39th District Court, Regular Term/Non-Incumbent Position.
 - James Osak, candidate for Judge of the 43rd District Court, Regular Term/Incumbent Position.
 - Kameshia Gant, candidate for Judge of the 46th District Court, Regular Term/Incumbent Position.
- Such other and further business as may be properly presented to the Board.

Sally Williams, Secretary
Board of State Canvassers

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